

Elaine Eberharter-Maki  
Hearing Officer  
818 La Cassia Drive  
Boise, Idaho 83705  
Telephone: (208) 336-8858  
Facsimile: (208) 367-1560  
Idaho State Bar No. 3322

ORIGINAL

**BEFORE THE BOARD OF SOCIAL WORK EXAMINERS**  
**STATE OF IDAHO**

In the Matter of the License of:

KIM M. EDGE,  
License No. LSW-2366,

Respondent.

) Case Nos. SWO-L3C-03-02-90  
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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND RECOMMENDED ORDER**

The contested case regarding the complaint against Kim M. Edge, formerly a licensed social worker, License No. LSW-2366, in the state of Idaho, duly came on for hearing before the Idaho State Board of Social Work Examiners (hereinafter "the Board") on Thursday, October 9, 2003, at the offices of the Idaho Bureau of Occupational Licenses (hereinafter "the Bureau"), located at the Owyhee Plaza, Suite 220, 1109 Main Street, Boise, Idaho. Elaine Eberharter-Maki was the duly appointed hearing officer designated to submit her Findings of Fact, Conclusions of Law, and Recommended Order to the Board. The Respondent, Kim M. Edge (hereinafter referred to as the "Respondent"), did not appear at the designated time for the hearing. The Board was represented by

its legal counsel, Cheri L. Bush, Deputy Attorney General. The Respondent and the Board may be hereinafter collectively referred to as the "Parties."

The issue presented in this contested case is as follows:

Whether the Complaint file in this matter contained sufficient cause or grounds that, if proven, warranted disciplinary action by the Board against the social work license of Respondent.

After considering the Complaint, after having heard and considered the testimony presented on behalf of the Board during the course of the administrative hearing, having reviewed the record of this matter consisting of the Board's exhibits 1 through 6, and being otherwise fully advised in the premises, the following consists of the Findings of Facts, Conclusions of Law, and Recommended Order.

## I.

### **SUMMARY OF THE PROCEEDINGS**

#### **A. Legal Authority of the Board and Statutory Standards for Disciplinary Action Regarding a License.**

As set forth in the Social Work Licensing Act (Idaho Code § 54-3201, *et seq.*), the Board is the self-governing agency for the State of Idaho that, among other matters, is responsible to promulgate necessary administrative rules, issue social work licenses to qualified applicants, and to initiate or receive complaints against those individuals holding social work licenses, to investigate complaints against such individuals, and to conduct disciplinary proceedings against such individuals in the state of Idaho. After notice and an opportunity for hearing, the Board may refuse to issue, refuse to renew, suspend, or revoke a license for cause shown that the individual engaged in unprofessional conduct, as defined in Idaho Code Section 54-3211. In addition, the Board has the

authority to refuse to issue, refuse to renew, revoke, or suspend any license pursuant to Idaho Code Section 54-3212. Any person whose license has been revoked may, after the expiration of two (2) years from the date of the revocation, but not before, apply for a new license.

**B. The Complaints against the Respondent.**

A complaint dated April 7, 2003, signed by the Chief of the Bureau alleged that Respondent was licensed by the Board from November 23, 1998, to June 20, 2002, at which time the license expired, and Respondent has not renewed her license. It is further alleged that Respondent misused her professional relationship with a client, T.P., by engaging in sexual relations with him on several occasions, during the period of time Respondent held a valid license. Thereafter, T.P. admitted himself to Magic Valley Regional Medical Center for suicidal ideation and treatment, due, in part, with his relationship with Respondent.

It is alleged that the allegations against Respondent constituted unprofessional conduct under IDAPA 24.14.01.450.01.f, 24.14.01.450.01.g, 24.14.01.450.01.h, and 24.14.01.450, and further constituted grounds for disciplinary action against her license to practice social work in the state of Idaho pursuant to Idaho Code Section 54-3211(6).

Respondent failed to answer the complaint filed against her. On May 14, 2003, a Notice of Proposed Default Order was mailed to Respondent, giving her an additional seven days to respond. No response was received in the time allotted and on May 28, 2003, a Default Order was entered, pursuant to Idaho Code Section 67-5242(4) and IDAPA 04.11.700. On August 18, 2003, the Board issued a Final Order finding Respondent in default and remanding the case to the Hearing Officer to conduct further proceedings necessary to complete the adjudication without participation of the Respondent.

**C. Contested Case Proceedings Under the Idaho Administrative Procedures Act.**

The Board is authorized to conduct hearings in furtherance of its licensing function. Idaho Code § 54-3212. The Social Work Licensing Act provides that hearings are to be conducted in accordance with the provisions of the Idaho Administrative Procedures Act (hereinafter referred to as "IDAPA").

In addition, the Board has adopted the Idaho Rules of Administrative Procedure of the Attorney General as standards for the procedures it employs in conducting contested cases. IDAPA 24.14.01.003. The Board, as the moving party in this proceeding, has the burden of proof.

**D. Summary of the Testimony and Evidence Presented at the Administrative Hearing.**

At the hearing held on October 9, 2003, the Board presented evidence through the testimony of Penny Ragland, Bureau Investigator; and T.P., former client of Respondent. Additionally, six exhibits were admitted into evidence:

1. Final Order by Board dated August 18, 2003;
2. Complaint filed with the Board by Julie Johansen;
3. Complaint filed with the Board by Tim Phillips;
4. Letter dated May 12, 2003, received from Barbara Robison;
5. Letter dated December 26, 2002, received from Frances Wright; and
6. Copy of photograph of T.P. and Respondent.

The Respondent did not appear at the hearing. Thus, Respondent did not submit any testimony or exhibits for the hearing officer to consider.

Ms. Ragland testified regarding her investigation, including the individuals she interviewed and the documentation she received during her investigation. Ms. Ragland was unable to interview Respondent because she was never able to locate her.

The evidence presented through the testimony of Ms. Ragland and the documentation admitted into evidence established that Ms. Ragland received two complaints against Respondent consisting of allegations of inappropriate contact with a male client during the spring of 2003. Exhibits 2 and 4. Ms. Ragland made several attempts to contact Respondent, and was unsuccessful. She also conducted a driver's license check and, according to those records, Respondent's status was identified as "Revoked, Failure to Submit." Tr., p. 9, L. 17. No new information was gleaned from that research.

Respondent was employed by Psychiatric Services from October 29, 2001, through May 2002 as a psychosocial rehabilitation specialist and case manager. In May 2002, allegations were made against Respondent by T.P., one of her male clients. Psychiatric Services conducted an internal investigation. During the investigation, Respondent confirmed that she had relapsed and was drinking. She admitted to crossing boundaries with T.P., including going to the mall with T.P., having T.P. over to her house for dinner, making a copy of T.P.'s house key, going over to his house after hours, and providing T.P. with her personal telephone number. Respondent kept a picture of herself and T.P. with the Easter bunny on her desk. However, Respondent denied having a sexual relationship with T.P.

After the internal investigation was completed by Psychiatric Services, it was determined Respondent had boundary issues in dealing with her clients, and her employment was terminated.

Ms. Ragland also interviewed T.P. T.P. further testified and verified the testimony provided by Ms. Ragland. Respondent was assigned to work as T.P.'s case manager in March 2002, and was responsible for transporting T.P. to his chemotherapy appointments, doctor appointments, and other appointments as needed. Respondent asked T.P. for a key to his house in case of emergencies, and he provided her with a key. Respondent began calling T.P. two or three times a day, and sometimes late in the evening, after midnight and 1:00 in the morning. T.P. did not initiate the telephone calls. Respondent also invited him over to her house for dinner and to watch movies. On several occasions, T.P. spent the night on Respondent's couch. Often, Respondent's children were also in the home. Respondent would transport T.P. from his house to hers, as he was not able to drive.

Beginning in approximately March 2003, Respondent called T.P. late at night, and asked if she could come over to his apartment. He indicated she could, and she drove over to visit him. When she arrived, T.P. thought that Respondent had been drinking, as she was acting "loopy," was slurring her words, and she smelled of alcohol. Respondent called T.P. several more times late at night asking if she could come over. For the first couple of times she went to T.P.'s apartment, nothing happened. However, beginning in May 2003, the relationship changed, and T.P. and Respondent engaged in sexual intercourse at least two times. T.P. indicated that he was depressed and was looking for companionship. Initially, T.P. indicated that the sexual relationship with Respondent felt good, but then it felt bad.

After the last incident of sexual intercourse, T.P. may have told Respondent that he was becoming suicidal, and that the feelings were related to their relationship. Respondent left T.P.'s residence and drove away. However, several minutes later, she called T.P. on her cell phone and came back. T.P. was afraid at that point, and did not let her back in the house. Respondent then

drove away again. T.P. called the Mental Health Suicide Hotline, but either Respondent or her daughter answered the phone. T.P. hung up and called Canyon View, and then barricaded himself in his apartment.

The last time T.P. saw Respondent was at Canyon View when he was being admitted as a patient, and Respondent was being discharged as a patient.

T.P. filed a complaint with the Bureau against Respondent. He also informed Respondent's employer of the situation, and no longer utilized Psychiatric Services for assistance. Because of the events that transpired after making complaints, T.P. testified he felt he was forced to move from his upstairs apartment in Eden. The police shut down the restaurant and store (above which he lived), and other businesses in town because it was alleged that T.P. had told the police that he was going to shoot everyone and blow up the place. T.P. was requested by the police to leave everything in his apartment and go downstairs. The police took T.P.'s keys and drove him to the hospital in Jerome. After meeting with a psychiatrist, T.P. returned to his apartment, but because of the perceived talking that was occurring in the small community of Eden, T.P. moved to another apartment in town, resulting in the loss of his deposit. When the talk did not diminish in town, he felt he had no choice but to move to Twin Falls, which he did, again resulting in the loss of his deposit. T.P. estimated his moves cost him approximately \$750.

## II.

### **BOARD OF SOCIAL WORK EXAMINERS DISCIPLINARY STANDARDS**

The Board was created by the Idaho Legislature as the means by which to "protect the public by setting standards of qualification, education, training and experience, and professional competence for those who engage in the practice of social work." Idaho Code § 54-3201.

The issue presented in this contested case is whether the complaint filed in this matter contains sufficient cause or grounds that, if proven, warrant disciplinary action by the Board against the social work license of Respondent, and, if so, the nature of that disciplinary action, if any.

### **III.**

#### **FINDINGS OF FACT**

1. The Board has jurisdiction in this matter, as the inappropriate conduct occurred when Respondent was licensed. Respondent currently is not licensed as a social worker in the state of Idaho.
2. Respondent was employed at Psychiatric Services from October 29, 2001, through May 2002 as a psychosocial rehabilitation specialist and case manager.
3. In March 2003, Respondent was assigned to work with T.P.
4. Respondent used her position as a licensed social worker and the established professional trust relationship to befriend T.P., and, in May 2003, enter into a sexual relationship with him.
5. Respondent's actions led to T.P. experiencing suicidal ideations and led, in part, to his hospitalization in May 2002.
6. Respondent's actions led to T.P. expending approximately \$750 in moving costs and lost deposits because of actions that transpired directly related to having a sexual relationship with Respondent.
7. Respondent has allowed her license to lapse, has not renewed her license, and has not practiced in the area of social work since May 2002.



#### IV.

#### **CONCLUSIONS OF LAW**

1. The Idaho Board may refuse to issue, refuse to renew, may suspend, or may revoke any social work license issued in Idaho, or, after a hearing, take other disciplinary action, upon proof, that the person has engaged in “unprofessional conduct.”

2. The Board has the power to refuse to issue, refuse to renew, revoke, or suspend any license if the holder thereof is shown to have willfully violated any of the rules prescribed by the Board, after a hearing has been held.

3. Respondent’s actions have resulted in a violation of the Code of Professional Conduct as follows:

- a. Respondent failed to terminate her services and professional relationship with T.P. when she began having a relationship with T.P. that went beyond a professional relationship, in violation of IDAPA 24.14.01.450.01.f.
- b. Respondent violated a position of trust by knowingly committing an act detrimental to a client, in violation of IDAPA 24.14.01.450.01.g.
- c. Respondent exploited her professional relationship by entering into a sexual relationship with a client, in violation of IDAPA 24.14.01.450.01.h.
- d. Respondent engaged in sexual intercourse with a client, in violation of IDAPA 24.14.01.450.01.i.

4. Respondent has violated Idaho Code Section 54-3211(6) in that she has been found guilty of unprofessional conduct and has failed to meet all the rules pertaining to ethical conduct.

V.

**RECOMMENDED ORDER**

It is the Recommended Order of the Hearing Officer that the Board take such action as it deems appropriate consistent with the Findings of Fact and Conclusions of Law stated above. The attorney for the Board specifically asked that the Board consider, as part of the discipline imposed against Respondent, that a fine be imposed against Respondent to reimburse T.P. for his out-of-pocket expenses.

VI.

**APPEAL RIGHTS**

Pursuant to Idaho Code Section 67-5244 and IDAPA 04.11.01.720.02:

- a. This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code.
- b. Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding.
- c. Written briefs in support of or taking exception to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have twenty-one days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee of the agency head) may remand the matter for further

evidentiary hearings if further factual development of the record is necessary before issuing a final order.

DATED this 5<sup>th</sup> day of November, 2003.

  
ELAINE EBERHARTER-MAKI, Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5<sup>th</sup> day of November, 2003, the original of the within and foregoing document was served by U.S. Mail, postage prepaid, upon:

Idaho State Board of Social Work Examiners  
1109 Main Street, Suite 220  
Boise, Idaho 83702-5642

and a true and correct copy of the within and foregoing document was served upon the following persons in the manner indicated below:

Cheri L. Bush, Deputy Attorney General  
Idaho Attorney General's Office  
650 West State Street, Lower Level  
P.O. Box 83720  
Boise, Idaho 83720-0010

X via U.S. MAIL, POSTAGE PREPAID  
       via HAND DELIVERY  
       via FACSIMILE TO 334-2830

Kim M. Edge  
586 Wirsching Avenue  
Twin Falls, Idaho 83301

X via U.S. MAIL, POSTAGE PREPAID  
       via OVERNIGHT DELIVERY

  
Elaine Eberharter-Maki